IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.RAMACHANDRAN
&
THE HONOURABLE MR. JUSTICE A.K.BASHEER

TUESDAY, THE 12TH DECEMBER 2006 / 21ST AGRAHAYANA 1928

WP(C).No. 17560 of 2006(M)

OS.649/2005 of FAMILY COURT, KOTTARAKKARA
.....

PETITIONER:

GOPALAKRISHNA PILLAI,
AGED 43 YEARS, S/O. LATE MADHAVAN PILLAI,
NJAKKATTU THEKKETHIL, MALOOR P.O.,
PATHANAPURAM, KOLLAM DISTRICT.

BY ADV. SRI.T.M.ABDUL LATHEEF

RESPONDENTS:

AMBIKA C. PILLAI, SANTHI NIKETHAN,
KULAKKADA P.O., KOTTARAKKARA,
KOLLAM DISTRICT.

BY ADV. SRI.B.MOHANLAL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

EXT.P1-TRUE COPY OF THE PLAINT O.S.200/2002 FILED Y THE RESPONDENT EORE THE FAMILY COURT, KOLLAM.

EXT.P2-TRUE COPY OF THE WRITTEN STATEMENT AND COUNTER CLAIM FILED Y THE PETITIONER EFORE THE FAMILY COURT, KOLLAM IN OS 200/2002.

// TRUE COPY //

M. RAMACHANDRAN & A.K. BASHEER, JJ.

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W.P.(C).NO.17560 OF 2006-M

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DATED THIS THE 12TH DAY OF DECEMBER, 2006.

JUDGMENT

Ramachandran, J.

By an interim order passed by this court, the proceedings before the Family Court, Kollam in O.S.No.200/2002 stands stayed at the instance of the husband. I.A.No.16572/2006 had been filed by the respondent pointing out that the proceedings are stalled and it requires to be expedited. During the course of the proceedings there was an application, whereby the wife had been permitted to carry out the examination of witnesses through an Advocate Commissioner. According to the husband, this course should not have been adopted by the Family Court and evidence should have been taken in the presence of the judge as envisaged by Section 15 of the Family Courts Act.

We do not think the Family Court committed any error in appointing a Commissioner for examination of witnesses. The court is aware of the special nature of the proceedings and has all prerogative to decide in what manner the parties are to be permitted to adduce evidence, so long as fairness is ensured.

In the aforesaid circumstances, we do not think that petitioner will be

justified in stalling the proceedings. The interim orders are vacated. The writ petition is dismissed.

(M.Ramachandran, Judge.)

(A.K. Basheer, Judge.)

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